

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14631 OF 2017

DINKAR SHANKAR GAWARE AND OTHERS
VERSUS
SUB DIVISIONAL OFFICER PATHARDI AND OTHERS

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Advocate for Petitioners : Mr. Umakant U. Wagh
AGP for Respondents 1 and 2: Mr. S.P. Tiwari
Advocate for Respondents 3 to 8: Mr. A.G. Ambetkar

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CORAM : V. K. JADHAV, J.
DATED : 16th JANUARY, 2018

PER COURT:-

1. Being aggrieved by the order dated 27.10.2017 passed by the Tahsildar, Pathardi, the petitioners herein have filed Revision before the Sub Divisional Officer, Pathardi and the same is still pending. Since the Sub Divisional Officer has refused to pass any interim order, the petitioners have approached this Court by filing present writ petition.

2. This Court by order dated 18.12.2017 has stayed the effect, execution and implementation of the order passed by Tahsildar in Rasta Case No. 47 of 2017 on the ground that respondent Nos. 3 to 8 have already instituted Regular Civil Suit No. 272 of 2017 in respect of disputed way and the said suit is still pending before the Civil Court. In view of bar of Section 26 (b) of Mamlatdar Courts Act 1906, this court has stayed the effect of the order impugned before the Sub Divisional Officer.

3. Learned counsel for the petitioners, on instructions, seeks leave to withdraw this writ petition if the direction is given to the learned Sub Divisional Officer to dispose of the pending revision expeditiously and till disposal of said revision, the interim order passed by this court as referred above, is continued.

4. Learned counsel for respondent Nos. 3 to 8 submits that on the day of order passed by the Tahsildar, the suit was kept open, however, during the period when this court has passed interim order, the other side has destroyed the said road. Learned Sub Divisional Officer may consider the bar under section 26(b) of Mamlatdar Courts Act and also the contentions raised by respondent Nos.3 to 8.

5. In view of above, leave granted. The writ petition is disposed of as withdrawn.

6. The learned Sub Divisional Officer is directed to dispose of the pending revision, as expeditiously as possible and preferably within a period of two months from the date of receipt of this order and till disposal of said appeal, the interim order passed by this court on 18.12.2017 shall remain in operation. All points are kept open.

(V. K. JADHAV, J.)